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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,102

02/27/2006

John Paul Koke

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6442

7590
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08/13/2007

EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,102

Applicant(s)

KOKE ET AL.

Examiner

Thanh K. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7,8,11,13,14,16,18,21,24,25,27,29,32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,8,11,13,14,16,18,21,24,25,27,29,32 and 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11-16-05;4-5-06;7-11-07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-36 in the reply filed on May 14, 2007 is acknowledged.
2. Applicant's cancellation of claims 5, 6, 9, 10, 12, 15, 17, 19, 20, 22, 23, 26, 28, 30, 31, 33 and 37-61 is acknowledged.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph **on a separate sheet** within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following limitations must be shown or the feature(s) canceled from the claim(s). No new matter should be entered:

“configure to receive, seal and separate a package having at least one open end and containing at least two products ... and configured to seal the at least one open end of the package after evacuation while the heat sealing and cutting assembly carries out the sealing and cutting operation ... two individual product packages” (emphasis added) as recited in claim 13.

“a sensor to sense the trailing edge of a leading product and/or leading edge of a trailing product in the product package on a conveyor” as recited in claim 24;

“at least three products in a product package to form three separate evacuated packages” as recited in claim 25;

“the vacuum packaging machine is configured to load and unload product package concurrently” as recited in claim 29; and

“the wrapping or bagging machine is configured to capture air in the product package when sealing the product package” as recited in claim 36.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 13, 18, 27 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13, the phrase "a package having at least one open end" (emphasis added) is vague and indefinite, because the invention as disclosed does not have a package having at least one open end. There is no support for this limitation as recited in claim 13. The Applicant's specification does disclose package of products that is sealed both ends, and the package is then further being sealed and cut at the middle to

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create two separate packages. Accordingly, claim 13 will not be examined at this time due to its indefiniteness.

Claim 18, the embodiment as recited in claim 18 requires that the product is loaded into the vacuum chamber in a transverse direction, and in order for this to occur, the vacuum chamber has to be able to receive the product transversely. However, in claim 1 (claim 18 dependent of claim 1), the vacuum chamber is required to receive the product longitudinally with the product feeding conveyor (also see figure 16 of the present application). One can see that this two embodiments (the embodiment of claim 1 and the embodiment of claim 18) can not be coexist at the same time). Therefore, claim 18 as recited renders the claim vague and indefinite. Accordingly, claim 18 will not be examined at this time due to its indefiniteness.

Claim 27, the phrase "the packages being arranged transversely in the vacuum chamber" is vague and indefinite for the same reason as mentioned for claim 18 (paragraph above). Accordingly, claim 27 will not be examined at this time due to its indefiniteness.

Claim 36 recites the limitation "when sealing the product package" in line 3. There is insufficient antecedent basis for this limitation in the claim. The sealing of the product package of the wrapping or bagging machine has never been mentioned before claim 36.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 7, 8, 14, 16, 21, 24, 25, 29, 32 and 34-36 rejected under 35 U.S.C. 103(a) as being unpatentable over Nixon, Jr. et al. (4,777,782) in view of Suga (2002/0083683).

Nixon discloses an apparatus comprising: a conveyor (12), and a vacuum chamber (24, 28), the vacuum chamber is arranged to receive at least two product packages to be vacuumed and sealed. The heat sealing assembly located between the products to be sealed and oriented transversely to the longitudinal direction of the conveyor.

Nixon discloses the claimed invention, but it does not expressly disclose that the heat sealing assembly including the cutting assembly.

Suga discloses an apparatus in which the sealing assembly (35, 36) includes the cutting assembly (51) so that the package is sealed and cutting at the same time.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Nixon apparatus by incorporating the sealing and cutting assembly as taught by Suga to provide an apparatus in which product packages can be sealed and cutting in a single operation.

The modified Nixon by Suga further discloses:

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Regarding claims 2 and 3, wherein the heat sealing and cutting assembly comprises a pair of heat seal bars and heat seal anvils (the sealing member 24, 28 comprises at least a pair of heat seal bars and anvils – figure 2 of Nixon).

Regarding claim 4, wherein the heat sealing and cutting assembly comprises a cutting device (51) (figure 3 of Suga).

Regarding claim 7, wherein the heat sealing and cutting assembly is configured to form two heat seal lines between the two products and cutting between the two seal lines (figure 3 of Nixon – column 4, lines 22-26).

Regarding claim 8, an arrangement to clamp the portion of the package to be sealed prior to sealing and cutting the package (figure 3 of Suga).

Regarding claim 14, wherein the conveyor is configured to deliver the product package directly into the vacuum chamber in the longitudinal direction (Nixon , figure 2).

Regarding claim 16, one or more chamber conveyor (12) (Nixon – figures 1 and 2).

Regarding claim 21, the apparatus which is indexed to align the portion of the product package between the two products with the heat sealing and cutting assembly (Nixon – figures 2-3).

Regarding claim 29, wherein the apparatus is configured to load and unload product packages concurrently (Nixon, figures 2-3 show that package is load and unload at the same time – as the products is loaded, the sealed package is unloaded).

Regarding claims 32 and 34-36, it is construed that Suga discloses a wrapping or bagging machine (Suga – figure 1); and in both Nixon and Suga, the products are

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positioned at a predetermined spacing; it is also construed that both Nixon and Suga disclose apparatus that is fully capable of being programmable to vary the product package size as well a predetermined spacing; and it is further construed that as the product being wrapped or bagged (in Nixon and Suga) air is trapped with the product package when it is sealed.

Regarding claim 24, the examiner takes official notice that it is old and well known in the art to use sensor to sense the trailing edge of a leading product (as recited in claim 24). The sensor provide an effective means to control the production process.

Regarding claim 25, as mentioned above, the modified Nixon by Suga discloses the claimed invention except for the at least three products in a product package to form three separate evacuated package. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Nixon and Suga so that there at least three products in a product package to form three separate evacuated package, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nixon, Jr. et al. (4,777,782) in view of Suga (2002/0083683) and further in view of Glandon et al. (4,779,398).

As discloses above, the combination of Nixon and Suga discloses the claimed invention, but it does not expressly disclose a puncturing device to evacuate the air form the package before sealing and cutting.

Glandon discloses that it is old and well known to use puncturing device to evacuate air form the package before the package is sealed and cut (column 6, lines 19-21).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified the combination of Nixon and Suga apparatus by incorporating the puncturing device as taught by Glandon to evacuate air form the package.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

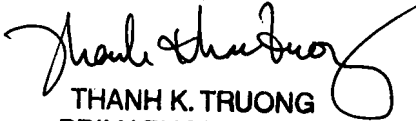
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tk

August 5, 2007.


THANH K. TRUONG
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700